

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

MATTHEW GIBSON,

Plaintiff,

vs.

Civil Action No. 5:21-cv-00181
Honorable Frank W. Volk

LOUISE E. GOLDSTON, individually,
COUNTY COMMISSION OF RALEIGH
COUNTY, a political subdivision,
JEFF MCPEAKE, individually,
BRIAN WHITE, individually,
BOBBY STUMP, individually,

Defendant.

**PLAINTIFF'S MOTION IN LIMINE REGARDING
UNDERLYING CONTEMPT ALLEGATIONS**

Now comes the Plaintiff, Matthew Gibson, by counsel, and moves this Court for an Order *in Limine* precluding defendants from presenting evidence pertaining to the underlying contempt allegations at issue in Plaintiff's Family Court action. In support hereof, Plaintiff states as follows:

Defendants intend to present evidence and/or argue at the trial of this matter that Plaintiff violated the underlying divorce order that led to the contempt proceedings at issue in the Complaint. However, the issue of whether Plaintiff in-fact violated the underlying settlement agreement or divorce order is not relevant to this Section 1983 action. Moreover, the contempt proceedings were already litigated to a final conclusion in Family Court, which resulted in a dismissal of the contempt petition with no adjudication finding Plaintiff in contempt.

Defendants are seeking to re-litigate the contempt issues before this Court, which is not only irrelevant under FRE Rule 401, but also improper for reasons Plaintiff has already briefed pertaining to the Supreme Court decision in the judicial disciplinary action. Even if Plaintiff had violated the underlying divorce order, it would not have justified the actions of the defendants. Nor would such facts provide defendants with a defense to Section 1983 liability. Even if there was some probative value in the underlying contempt allegations, such evidence can only serve to confuse the issues and unfairly prejudice the Plaintiff, pursuant to FRE Rule 403.

WHEREFORE, the Plaintiff respectfully requests that this Court grant his Motion *in Limine* Regarding Underlying Contempt Allegations and order such evidence excluded from the trial of this matter.

MATTHEW GIBSON,
By Counsel

/s/ John H. Bryan
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BOBBY STUMP, individually,
KYLE LUSK, individually,

Defendant.

CERTIFICATE OF SERVICE

I, John H. Bryan, do hereby certify that I have delivered a true copy of the foregoing PLAINTIFF'S MOTION IN LIMINE REGARDING UNDERLYING CONTEMPT ALLEGATIONS, has been served upon counsel of record by using the CM/ECF System, this the 6th day of June, 2022, and addressed as follows:

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/s/ John H. Bryan

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